

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

CHARU DESAI,

Plaintiff,

v.

UMASS MEMORIAL MEDICAL GROUP,
INC., et al.,

Defendants.

CIVIL ACTION NO. 4:19-cv-10520-TSH

PLAINTIFF'S PRETRIAL NARRATIVE STATEMENT

Plaintiff, by and through her undersigned counsel, hereby files her Pretrial Memorandum pursuant to Massachusetts District Local Civil Rule 16.5

A. BRIEF STATEMENT OF FACTS TO BE INTRODUCED AT TRIAL

Plaintiff Charu Desai ("Dr. Desai") will prove that Defendant University of Massachusetts Memorial Medical Group (the "Medical Group") discriminated against her based on her age, and Max Rosen, MD, her supervisor interfered with her advantageous relations. Plaintiff will show that Max Rosen, on behalf of the Medical Group, treated the Plaintiff differently because of her age before creating a pretextual basis for her termination. Plaintiff will prove that the Medical Group intended to replace her with a younger, less qualified radiologist and that Max Rosen interfered with her contractual relationships with Marlborough Hospital and the University of Massachusetts medical school.

Dr. Desai was born in 1950 and graduated from medical school in 1972. She completed her residency and fellowship at the Medical School and then entered private practice. In 1992, she returned to the University of Massachusetts as a physician specializing in chest radiology at the Medical Group and an assistant (later associate) professor at the Medical Group.

Dr. Desai specialized in chest radiology. At the University of Massachusetts, she reviewed and interpreted radiological images for patients at multiple hospitals, including the Medical Group campuses and Marlborough Hospital. She also regularly taught residents; the year she was terminated, the residents selected her as their best teacher. After twenty-seven years at the University of Massachusetts, Dr. Desai's employment was pretextually terminated by Dr. Rosen on March 17, 2019. Dr. Rosen is the Chair of the Department of Radiology (the "Department") at the University of Massachusetts and has been in that position since 2012. As Chair, he supervises and manages all radiologists the Medical Group employs. Dr. Dill became Division Chief of the Department's Chest Division in February 2016. Dr. Stephen Tosi was the President of the Medical Group at the time of Dr. Desai's termination.

In the years leading to her termination, Dr. Desai requested three changes to her work conditions. First, she requested that she be allotted "academic time," which, according to Department policy, allows physicians to take time away from clinical duties to perform "academic responsibilities," such as teaching and conference preparation, writing papers or texts, completing research projects, attending institutional and departmental committees, attending conferences, and serving on committees of local, regional, national, or international organizations. In reality, this 'academic time' is not used for academic responsibilities but is understood as 'time off. Rosen refused to give her any of this academic time, despite giving it to others much younger and with less workload. Plaintiff also requested that she be exempt from being on "call." Radiologists in

the Chest Division generally were required to be on call ten weekends per year but qualified “senior” radiologists were exempt. In this case, Plaintiff requested it because she already had a hefty workload, working harder than any other radiologist in the Department. Third, Plaintiff requested that she be allowed to use a home workstation, which the Department granted to specific radiologists for remote work. Dr. Rosen denied each of these requests to pressure Plaintiff into working per diem, part-time, or preferably retiring altogether.

Dr. Desai was highly regarded among many of her colleagues. In letters of recommendation written over the years, including up until and past the date of her termination, colleagues described Dr. Desai as a “superb,” “excellent,” and “careful and observant” radiologist with “excellent command of the intricacies of interpretation in chest CT scans.” Indeed, none of Dr. Desai’s annual faculty performance reviews reflect any deficiencies in her performance.

Dr. Dill complained to Dr. Rosen about the quality of Dr. Desai’s CT interpretations and advised him that others had raised concerns. It will be shown that Dr. Dill was a serial complainer about many physicians. It will further be shown that Dr. Dill re-credentialed Dr. Desai and never expressed a problem with the quality of her work which might affect her credentialing. To the contrary, Dr. Dill signed off on the Plaintiff’s medical credentialing.

Usually, Dr. Rosen took little or no notice of the complaints of other doctors by Dr. Dill because Dr. Dill was a serial complainer. However, after Dr. Desai refused to retire, go per diem or part-time as Dr. Rosen required, Dr. Rosen decided to use these Dr. Dill’s complaints as a pretext for a so-called ‘independent review’ of the Plaintiff’s CT scans. In addition, on January 31, 2017, Dr. Rosen met with representatives from Marlborough Hospital to address, among other things, the quality of chest imaging at Marlborough Hospital. At this meeting, Dr. Kimberly

Robinson, a treating pulmonologist at the hospital, allegedly raised concerns regarding the quality of Dr. Desai's CT interpretations. Dr. Robinson told Dr. Rosen that she never believed Dr. Desai's reports and could not rely on them. This will be shown to be untrue. It is belied by the fact that Dr. Robinson credentialed and re-credentialed Dr. Desai every year of her practice at Marlborough Hospital.

As an alleged consequence of Dr. Robinson and Dr. Dill's complaints, Dr. Rosen created what he termed 'a focused review of Dr. Desai's CT interpretations.' The testimony will show that it was unfair and biased from the start. On February 1, 2017, Dr. Rosen asked Department staff to randomly select twenty-five of Dr. Desai's chest CT interpretations and, as 'a control group, ' twenty-five chest CT interpretations from other radiologists. On August 22, 2017, Dr. Rosen contacted Dr. Diana Litmanovich, a chest radiologist he knew but had never been certified as an expert in any court. Nonetheless, Dr. Rosen hired Dr. Deanna Litmanovich as an expert in radiological interpretations to conduct an independent review and charged her with interpreting the group of fifty anonymized studies. It was her job to determine if she agreed or disagreed with the CT interpretations and if her disagreement would have an impact on patient care.

A few months later, on October 3, 2017, in anticipation of Dr. Desai's expected retirement and/or per diem or part-time status, and before Dr. Litmanovich's review was complete, Dr. Rosen sent an email to several executives at the Medical Group, including Dr. Tosi, stating that he had found a "great" chest radiologist who was finishing his fellowship in June 2018. Dr. Rosen stated that he wanted to make that radiologist a job offer but had "not formally resolved Dr. Desai's employment - planned for 9/30/18." Dr. Rosen stated that "[i]f for some [r]eason Dr. Desai is still employed after 9/30/18," he would make other staffing adjustments to accommodate the new hire. Dr. Rosen further stated that he had been looking for a fellowship-trained chest

radiologist for three years and that if Dr. Desai left without a replacement, he would not be able to provide adequate clinical service in the Chest Division. It should be noted that this radiologist was much younger than Dr. Desai and far less experienced, and yet Defendants had tabbed him to be Dr. Desai's replacement.

One of the executives responded with concern about the finances of having a potential three-month overlap between the end of Dr. Desai's employment and the start of the new radiologist's employment. Dr. Rosen responded with potential contingencies for mitigating the financial burden, such as adjusting the contracts of other radiologists or asking the new radiologist to start later. Dr. Tosi approved the offer. That same day, Dr. Rosen sent an email to Kathleen Leblanc in Human Resources, asking to speak about Dr. Desai, stating, "I've been thinking a lot about how to do this - and want to run some things past you."

A week later, Dr. Joseph Ferrucci, a radiologist working per diem for the Department who had previously served as Chair of the Department, sent an email to Dr. Rosen stating that he had spoken with Dr. Desai and "told her that you wanted to be accommodating especially in recognition of her years of service[,] [b]ut that you also had an obligation as Chair to think about recruiting younger staff for service needs." Dr. Ferrucci stated that he had indicated to Dr. Desai that Dr. Rosen was considering offering her a twelve-month contract or a per diem arrangement. Dr. Ferrucci ended the email by stating, "I think you can take the next step in the discussions. Good luck." Dr. Rosen responded, "Thanks."

Later that day, Leblanc sent an email to Dr. Rosen to follow up on a meeting from the day before. Leblanc stated, "all options have legal ramifications, and we should discuss all options

together.” Dr. Rosen agreed to meet and stated, “Dr. Ferrucci used a conversation he [had] with Dr. Desai to potentially open a window for us.”

Dr. Litmanovich sent Dr. Rosen her findings on December 25, 2017. Among Dr. Desai’s interpretations, Dr. Litmanovich identified five major errors and nine errors impacting patient care. Among the interpretations of other radiologists, Dr. Litmanovich identified one major error and five errors impacting patient care. Dr. Litmanovich noted that, overall, she did not find any life-threatening misses or misinterpretations and that the technical quality of the studies was “very good.”

On February 16, 2018, Dr. Dill sent Dr. Rosen an email with the subject line, “confidential review,” stating, “What I have so far is concerning. There are two signif[icant] problems caught so far upon my limited review.” In response, Dr. Rosen asked Dr. Dill to “review the remainder” and send him a summary.

According to Dr. Rosen, the practice of radiology can involve a degree of probability and subjectivity. As part of this litigation, Dr. Desai hired Dr. Joseph R Gruden (Dr. Gruden), a radiology expert, to review the fifty interpretations reviewed by Dr. Litmanovich. Dr. Gruden opined that Dr. Desai made no significant errors, that her interpretations were “well within the expected standard of care at an urban teaching hospital,” and that Dr. Litmanovich’s criticism “was subjective.” He also severely criticized the intellectual integrity of Dr. Litmanovich’s interpretations which were reviewed and accepted by Dr. Rosen, who, in January 2018, proudly presented them in a PowerPoint to other faculty members.

On March 14, 2018, Dr. Rosen met with Dr. Desai to tell her that her employment would be terminated on March 17, 2019. Pursuant to her employment agreement with the Medical Group,

Dr. Desai was entitled to twelve months' notice before termination. The agreement also permitted immediate termination "for cause," such as "material negligence or misconduct (other than because of disability or approved leave) in the performance of duties." Dr. Desai's termination was without cause. Dr. Rosen did not tell Dr. Desai that she could resign instead of termination, an option he had expressly given to other physicians with performance issues. At a later meeting, Dr. Rosen provided Dr. Desai with a summary of Dr. Litmanovich's independent review. Dr. Rosen's decision to terminate Dr. Desai's employment was based on his assessment of Dr. Litmanovich's independent review. In other words, Dr. Rosen's assessment was that Dr. Desai was incompetent. Despite Dr. Rosen's alleged concern for his patients and the quality of care, he permitted Dr. Desai to treat patients for the entire year after she had been terminated, and, during this time, Dr. Desai was also re-credentialed, with Dr. Robinson and Dr. Dill signing off.

Disingenuously, on an "employee separation form" signed by Dr. Rosen on November 30, 2018, Dr. Rosen listed the reason for Dr. Desai's termination as "retirement" rather than selecting an option on the form for "performance issues." Dr. Rosen also selected that he would "maybe" re-employ Dr. Desai. Dr. Desai's employment with the Medical Group formally ended on March 17, 2019.

Overall, these facts will show disparate treatment as a consequence of Plaintiff's age and an intent by Dr. Rosen to interfere with her advantageous relations.

B. STATEMENT OF DAMAGES CLAIMED

Plaintiff is seeking the following damages:

- Damages are pled in accordance with the expert report by economist Michael Morrison Ph.D.
- Plaintiff will testify about her pain and suffering, which cannot be precisely calculated.
- Plaintiff will request punitive damages from Dr. Rosen for intentional interference with Plaintiff's advantageous relations.
- In the event Plaintiff prevails at trial, she will also seek statutory attorneys' fees and any other monetary compensation and equitable relief permitted by the Federal Rules of Civil Procedure, the laws of the United States, and the Commonwealth of Massachusetts.

C. WITNESS LIST

1. LIST OF WITNESSES

1. Max Rosen, M.D.
In the custody and control of the Defendant
2. Jeffrey R. Gruden MD
from In the custody and control of the Defendant
3. Charu Desai M.D.
Plaintiff
4. Michael Morrison PhD
In the custody and control of the Defendant
5. Pogos Vaskanian M.D.
In the custody and control of the Defendant
6. Karl Fabian L Uy M.D.
In the custody and control of the Defendant
7. John Maklis, M.D.
In the custody and control of the Defendant

Plaintiff also reserves the right to call any witnesses listed by Defendants.

D. DEPOSITION DESIGNATIONS

Not applicable, all witnesses deposed are expected to be called, barring an unavailability issue (no such issues are known to Plaintiff at the time of this filing).

E. LIST OF EXHIBITS

Plaintiff also reserves the right to utilize any exhibits listed by Defendants. Plaintiff reserves the right to seek leave to amend this list to the extent consistent with the Federal Rules of Civil Procedure, the Local Rules of the United States District Court for the Commonwealth of Massachusetts, and the policies and procedures of this Court.

Original Complaint

1. Affidavit of Charu Desai, From Plaintiff's Opposition to All Defendants Motion For Summary Judgment NO BATES NUMBER
2. Curriculum Vitae of Charu Desai, MD CD 42-45
3. Affidavit of Max Rosen M.D. Dated December 15, 2021, NO BATES NUMBER
4. Letter of Reference from Dr. Jerry Balikian MD, Dated May 14, 2001, CD 65
5. Letter of Reference from Dr. Jeffrey Leppo MD CD 75-76
6. Letter of Reference from Dr. Richard Irwin MD December 24, 2001 CD 78-79
7. Letter of Reference from Dr. Carl D'Orsi MD CD 80
8. Letter of Reference from Dr. Krishna Kandarpa, MD UMM 331
9. Letter of Reference from Dr. Jerry Balikian, MD, Dated September 20, 2015, CD 39
10. Letter of Reference from Dr. Joseph Ferrucci MD CD 38

11. Letter of Reference from Dr. Aaron Harman MD CD 35
12. Letter of Reference from Dr. Richard Irwin, MD, March 29, 2018, CD 133
13. Letter of Reference from Dr. Andrew Chen MD CD 89
14. Letter of Reference from Dr. Gopal Vijayaraghavan MD CD 90
15. Letter of Reference from Dr. George Eypper MD CD 37
16. Letter of Reference from Dr. Laci McIntosh MD CD 36
17. Letter of Reference from Dr. Karl Uy MD CD 85-86
18. Letter of Reference from Dr. Edward H. Smith MD CD 66
19. Letter of Reference from Dr. Cynthia Umail MD CD 77
20. Letter of Reference from Dr. Robert Chiulli MD UMM 03274
21. Letter of Reference from Dr. Frances White MD UMM 03276
22. Letter of Reference from Dr. Ricardo Rosales MD UMM 03275
23. Letter of Reference from Dr. Daniel Berman MD CD 88
24. Patient Note, Gym Teacher at Webster Middle School CD 87
25. Phone Message from Patient for Charu Desai to Compliment Dr. Desai for her diagnosis of CD 137
26. Deposition of Charu S. Desai, MD and all Associated Exhibits NO BATES NUMBER
27. Deposition of Max P. Rosen MD and all Associated Exhibits NO BATES NUMBER
28. Deposition of Carla Carten Ph.D. and all Associated Exhibits NO BATES NUMBER

29. University of Massachusetts Medical School Annual Faculty Report and Evaluation of Professional Activities for Charu Desai MD 2009-2018 UMM 265-313
30. Call and Weekend Holiday Coverage Policy Revised October 2015 UMM 4922-4926
31. Email thread Between J. Ferrucci and Max Rosen Re: Charu Desai Oct 11, 2017, UMM 4631
32. Email thread Between Randa Mowlood and Myra Shah Re: Dr. Desai and Call Scheduling May 19, 2017, UMM 4927
33. Email thread Between Karin Dill and Max Rosen on March 14, 2018, UMM 4659
34. Charu Desai MD Physician Employment Agreement December 8, 2008, UMM 333-46, UM 92
35. Resident Speech for Presentation of Teacher of the Year Award to Charu Desai MD CD 141-142
36. UMASS Website Link to Speech for 2017 Teacher of the Year Award Recipient Charu Desai
<https://www.umassmed.edu/radiology/radnews/2017/July/teacheroftheyear/>
37. Academic and Administrative Time Policy Updated June 8th, 2017 CD 1-2
38. Dr. Eric Schmidlin Employee Change Form to Per Diem Status UMM 19971
39. Dr. Maria Barile Employee Introduction Form UMM 06988
40. C. Desai Email to Dr. M. Rosen Re: Response to Meeting with Dr. Rosen May 31, 2016, UMM 4739-4740

41. University of Massachusetts Medical School Annual Faculty Report and Evaluation of Professional Activities for Karin Dill MD July 1 2017-June 30, 2018 UMM 1790-1799
42. Max Rosen and Stephen Tosi Letter of Offer of Employment to Karin Dill MD UMM 7666-8
43. Marianne Felice and Alan Stoll Letter of Offer of Employment to Ellen Christine Wallace MD UMM 29174-29175
44. Letter Confirming Annual Salary of Mona Korgaonkar MD dated February 27, 2015, UMM 16575
45. Physician Time Off Data/ Academic Time/Administrative Time/ Sick Days/ Vacation Excel Spreadsheet 2016 and 2017 with Tabs for Each Individual Radiology Physician UMM 8912-8913 and all Subsections
46. Employment Offer Letter of Maria Barile MD UMM 9208-9209
47. Employment Offer Letter of Ryan Tai MD UMM 25726-25727
48. M. Rosen Letter to K. Dill Confirming Reduction of Non-Clinical Time UMM 28327
49. K. Dill Email To Staff Re: Minutes From Chest Division Meeting 6/14/17 UMM 4377-4378
50. M. Rosen Email To Darren Brennan *et al.* Re: Review of Radiology Issues at Marlborough Subject Desai Confidential UMM 707-UMM 708
51. Phillip Steeves MD Physician Employment Agreement UMM 24652-24654
52. Email from K. Dill to Charu Desai re: vacation request April 19, 2016, UMM 04340

53. Deposition of Abhijit Roychowdhury and All Associated Exhibits MD NO BATES NUMBER
54. Defendants' First MCAD (Massachusetts Commission Against Discrimination) Position Statement July 17, 2018, and All Associated Exhibits and/or Affidavits NO BATES NUMBER
55. Email thread Between Max Rosen MD and Michelle Streeter October 3rd, 2017 UMM 5003
56. Karin Dill Email to Max Rosen Re: Chest Division March 30, 2017, UMM 30055
57. Deposition of Joseph Ferrucci MD and All Associated Exhibits NO BATES NUMBER
58. Joseph Makris MD Email to Max Rosen Re: Chest Resident Workflow October 4, 2016, UMM 04742
59. University of Massachusetts Medical School Annual Faculty Report and Evaluation of Professional Activities for Charu Desai MD July 1 2017-June 30, 2018 UMM 01784-01789
60. University of Massachusetts Medical School Annual Faculty Report and Evaluation of Professional Activities for Karin Dill MD July 1 2017-June 30, 2018 UMM 01790-01799
61. University of Massachusetts Medical School Annual Faculty Report and Evaluation of Professional Activities for Charu Desai MD July 1 2016-June 30, 2017 UMM 01370-01374

62. University of Massachusetts Medical School Annual Faculty Report and Evaluation of Professional Activities for Karin Dill MD July 1 2016-June 30, 2017 UMM 01375-01381
63. Defendant Karin Dill's Answers To Plaintiff's Second Set of Interrogatories and Associated Exhibits and/or Affidavits NO BATES NUMBER
64. Defendant Max Rosen's Answers To Plaintiff's Second Set of Interrogatories and Associated Exhibits and/or Affidavits NO BATES NUMBER
65. UMASS Medical Center Review and Action Form Re: Charu Desai Signed by Max Rosen June 21, 2017, UMM 02715
66. K. Dill Peer Review of Charu Desai July 1, 2016-June 30, 2017 CD 49
67. Personal Notes of Charu Desai Regarding K. Dill Peer Review of Charu Desai From July 1 2016-June 30, 2017 CD 134-136
68. Count of Accession Number Chart Re: Ronald Garrell Peer Review UMM 8943-4
69. K. Dill Review of CT Scans February 2, 2016-January 28, 2021 UMM 3687-3688
70. Defendants' Second MCAD Position Statement (Massachusetts Commission Against Discrimination) February 21, 2019, and All Associated Exhibits and/or Affidavits NO BATES NUMBER
71. Defendants' Answer to Amended Complaint and Jury Demand Submitted July 12, 2019, NO BATES NUMBER
72. Email from Dr. Robinson Re: Radiology Issues Summary January 3rd, 2018 and Subsequent Email Exchanges between Darren Brennan and Max Rosen UMM 04299-04300

73. Email from Kathryn Green to Max Rosen Re: Confidential QA February 1st, 2017
UMM 04745-6
74. Methods Slide From Powerpoint Presentation UMM 03723
75. M. Rosen Email to D. Litmanovich Regarding QA Project UMM 00545
76. D. Brennan Forwarded Email to M. Rosen Re: Incident Today September 21,
2017, initially written by Charu Desai MD UMM 539
77. D. Brennan Email to Charu Desai Subject: Incident with Dr. Dill Today dated
September 21, 2017, MD UMM 03867
78. Charu Desai Email to D. Brennan September 21, 2017, UMM 04549
79. M. Rosen Email to Kelly Emrich re: Confidential September 22, 2017, UMM
04617
80. M. Rosen Email to K. Dill dated September 24, 2018, Re: AY 19 Non-Clinical
Time and Chest Schedule UMM 28327
81. M. Rosen email to Randa Mowlood Re: Consultant for QA Project October 13,
2017, UMM 546-547
82. M. Rosen email to D. Litmanovich Re: Consultant for QA Project December 7,
2017, UMM 548-551
83. D. Litmanovich to M. Rosen Subject: Project December 25, 2017, UMM 552
84. Raw Data QACH 1-50 Interpretation and Overall Summary of Findings Sent by
Diana Litmanovich to M. Rosen on December 25th, 2017 UMM 690-693
85. Expert Report of James F. Gruden including Curriculum Vitae July 30, 2021, NO
BATES NUMBER

86. Deposition of James F. Gruden and All Associated Exhibits October 21, 2021,
NO BATES STAMPING
87. Expert Report of Ella Kazerooni MD including Curriculum Vitae NO BATES
NUMBER
88. Expert Report of Pogos Voskanian MD including Curriculum Vitae NO BATES
NUMBER
89. Expert Report of Michael Morrison MD including Curriculum Vitae NO BATES
NUMBER
90. Deposition of Ella Kazerooni and All Associated Exhibits MD October 21, 2021,
NO BATES NUMBER
91. Deposition of Mark O. Cutler MD and All Associated Exhibits MD NO BATES
NUMBER
92. Powerpoint Presentation Chest CT QA Study CONFIDENTIAL(sic) January 26,
2017 UMM 699-705
93. M. Rosen Letter to D. Brennan Regarding New Time Commitment to Department
dated August 13, 2019, UMM 09636
94. UMASS Radiology Organizational Chart NO BATES NUMBER
95. Letter of Notice Termination of Employment Re: Charu Desai dated March 8,
2018, UMM 253
96. M. Rosen Letter to Helen Alencar Re: Offer of One Year Extension of
Employment dated April 10, 2014, UMM 05670-05671, UMM 03695-6
97. Email thread Between C. Desai and M. Rosen Subject Meeting to Review QA
Data and March 14th, 2018 Meeting UMM 3957-3958

98. C. Desai Handwritten Notes Summary of April 24th, 2018 Meeting Regarding QA Data UMM 03722
99. C. Desai email to M. Rosen Subject: Summary of April 24th, 2018 Meeting Regarding QA Data UMM 03951
100. QACH 1-50 De-Identified Reports UMM 553-689
101. Email thread Between M. Rosen and S. Tosi and Unspecified Sender Re: Confidential-Cardiothoracic Radiology Staffing October 3rd, 2017 UMM 4998-5002
102. Email thread Between M. Rosen and M. Streeter Subject: Confidential-Cardiothoracic Radiology Staffing UMM 4627-30
103. Email Between M. Streeter and S. Tosi Re: Confidential-Cardiothoracic radiology staffing. UMM 04984
104. Email Between M. Rosen and S. Tosi Re: UPenn Candidate from “Confidential Cardiothoracic Radiology Staffing UMM 4998
105. Email Exchange between M. Rosen and Kathleen Leblanc Subject Confidential UMM 04490
106. Email Exchange between M. Rosen and Kathleen Leblanc Subject Follow-Up UMM 04754
107. Email Exchange between J. Ferrucci and M. Rosen Subject: Charu Desai UMM 04631
108. J. Ferrucci Evaluation of C. Desai signed 12/22/14 UMM 03609
109. J. Balikian Evaluation of C. Desai signed 12/29/14 UMM 03611

110. M. Rosen Evaluation of C. Desai UMASS Memorial Healthcare Reappointment Appraisal/Recommendation Form signed 5/8/13 UMM 03261
111. Letter from Dr. Stephen Tosi to Dr. Desai dated July 9, 2009, Re: Clinical Privileges and Reappointment to Medical Staff UMM 02914
112. Letter from Dr. Stephen Tosi to Dr. Desai dated July 31, 2007, Re: Reappointment to Medical Staff UMM 02920
113. Changes to Delineation of Privileges Form Completed by C. Desai 3/27/17and Signed on June 9, 2017, UMM 03516
114. Changes to Delineation of Privileges Form Completed by C. Desai on 3/27/17and Signed by M. Rosen on June 21, 2017, UMM 02888
115. UMASS Medical Center Review and Action Form Re: Charu Desai Signed by Max Rosen June 3, 2015, UMM 02897
116. UMASS Memorial Healthcare Reappointment Appraisal/Recommendation form Signed by Max Rosen May 8, 2013, UMM 03261
117. Marlborough Hospital Clinical Privileges Request for Reappointment signed by C. Desai 3/26/2015 UMM 03524
118. Confirmation of Medical Staff Appointment C. Desai Letter December 15, 2014, UMM 03178
119. Letter from Dr. Stephen Tosi to Dr. Desai dated July 14, 2011, Re: Reappointment to Medical Staff UMM 02908
120. Letter from Sharon Bonner Credentialing Spec. Confirmation of Appointment Re: C. Desai dated May 18, 2017, UMM 03596

121. UMASS Memorial Marlborough Hospital Confirmation of Appointment Re: C. Desai May 18, 2017, UMM 03594
122. UMASS Memorial Confirmation of Medical Staff Appointment Re: C. Desai dated May 5, 2015, UMM 03602
123. UMASS Memorial Marlborough Hospital Confirmation of Appointment Re: C. Desai dated July 11, 2017, UMM 03639
124. UMASS Memorial Medical Center OPPE Reappointment Re: C. Desai signed by M. Rosen on June 5, 2015, UMM 03672
125. Letter from Steve Roach to C. Desai Re: Marlborough Hospital Medical Staff Reappointment dated February 9, 2015, UMM 03645
126. University of Massachusetts Medical Center Credentialing Forms for Charu Desai MD UMM 03261, 03672, 02897, 03644, 2715, 2884, 2885, 2886, 2887, 2888, 3680, 3602, 3596
127. Marlborough Hospital Credentialing forms for Charu Desai MD UMM 03518, 03519, 03643, 03644, 03514, 03515, 03516, 03640, 03641, 03258, 03642, 03594, 03639
128. Email from Maureen Podesta Re: Credentialing Meeting Dates/Cycles UMM 03163
129. Letter from Steven Roach to C. Desai Re: Resignation April 4, 2019, UMM 03638
130. Affidavit of Steven Roach signed December 6, 2021, NO BATES NUMBER
131. Employee Separation Form C. Desai signed November 30, 2018, UMM 252

- 132. Radiologists Separated from UMass Memorial Medical Group Since January 1, 2015, UMM 03690-1
- 133. Email Exchange between K. Dill, Patty Friend, Max Rosen, and Laureen Sena Re: Confidential, Patient is asking why cardiac is taking so long to book UMM 30046-8
- 134. J. Ferrucci MD Academic and Hospital Appointments UMM 13538
- 135. M. Korgaonkar Changing Position from Full Time Employee to Per Diem Effective 7/1/18 UMM 16231
- 136. J. Ferrucci Changing to Per Diem Status UMM 13900
- 137. J. Balikian Per Diem Offer UMM 06911
- 138. E. Suran Per Diem Offer UMM 25170
- 139. Video of Dr. Tasneem Lalani's Speech About Dr. Desai
- 140. Video of Dr. Aaron Harman's Speech About Dr. Desai
- 141. Video of Dr. Sarwat Hussain's Speech About Dr. Desai
- 142. M. Korgaonkar Current Clinical Competence Evaluation of Charu Desai, MD UMM 3256-3257
- 143. J. Balikian Current Clinical Competence Evaluation of Charu Desai, MD UMM 03611
- 144. Current Clinical Competence Evaluation Unspecified Evaluator December 19, 2014, UMM 03610
- 145. Dr. Karin Dill Separation Date UMM 07693
- 146. Exhibit MMMM From Plaintiff's Opposition to All Defendants' Motion for Summary Judgment for Purposes of Date of Birth of Radiologists

- 147. CME Certificate April 13-14, 2018, and CV from Charu Desai Supplemental Production Prior to Mediation NO BATES STAMP
- 148. Email from D. Brennan To M. Rosen Subject: Marlboro Chest CTs UMM 30040
- 149. Website Links to Credentialing Committees Members at UMMC and Marlborough Hospital

<https://www.ummhealth.org/about-us/board-trustees-and-administration>

<https://www.ummhealth.org/marlborough-hospital/board-trustees-and-administration>

- 150. Address Change form Dr. Jay Agrawal changing employment from full-time to per diem status on September 30, 2017, UMM 09145
- 151. Eric Dickson and Max Rosen Letter to Keith Cauley Re: Notice of Termination of Employment Dated March 1st, 2013 UMM 03699
- 152. Max Rosen Letter to Keith Cauley Re: Termination of Employment dated March 13, 2013, UMM 3700
- 153. Michelle Streeter Letter to Keith Cauley Re: UMass Memorial Medical Group Dispute Resolution Policy for Physicians dated September 9, 2013, UMM 3701
- 154. Radiologists Separated from UMass Memorial Medical Group Since January 1, 2015, Annotated with added ages and Dates of Birth UMM 03690-1
- 155. Alan Goldstein MD Curriculum Vitae UMM 14550
- 156. Christopher Sereni MD Curriculum Vitae UMM 20351
- 157. Elisabeth Garwood MD Curriculum Vitae UMM 14070
- 158. Brian Brochu MD Curriculum Vitae UMM 09970

159. Ryan Tai MD Curriculum Vitae UMM 025638-25639
160. George Watts MD Curriculum Vitae UMM 027812
161. Karin Dill MD Curriculum Vitae UMM 28227-28244, 28187
162. Eric Schmidlin MD Curriculum Vitae UMM 19882
163. Byron Chen MD Curriculum Vitae UMM 10879
164. Hemang Kotecha DO Curriculum Vitae UMM 16639
165. Steven Baccei MD Curriculum Vitae UMM 06169
166. Christopher Cerniglia DO Curriculum Vitae UMM 10215-10216
167. Satish Dundamadappa MBBS Curriculum Vitae UMM 12018
168. Jean-Marc Gauguet Curriculum Vitae UMM 14183-14187
169. Dennis Coughlin MD Curriculum Vitae UMM 11213
170. Max Rosen MD Curriculum Vitae UMM 18198-18941
171. Joseph Ferrucci Curriculum Vitae UMM 13537-13612
172. Darren Brennan Curriculum Vitae UMM 09497-09522
173. Max Rosen and Stephen Tosi Letter of Offer of Employment to Alan Goldstein
MD UMM 14579-14580
174. Max Rosen and Stephen Tosi Letter of Offer of Employment to Christopher
Sereni MD UMM 20387-20388, 20372-20373
175. Max Rosen and Stephen Tosi Letter of Offer of Employment to Ryan Tai MD
UMM 25726-25727, 25675-25676
176. Max Rosen and Stephen Tosi Letter of Offer of Employment to Stephan Wicky
Van Doyer MD UMM 29582-29583

177. Max Rosen and Stephen Tosi Letter of Offer of Employment to Jean-Marc Gauguet MD UMM 14311-14312
178. Max Rosen and Stephen Tosi Letter of Offer of Employment to George Watts MD UMM 27870-27871
179. Max Rosen and Stephen Tosi Letter of Offer of Employment to Brian Brochu MD UMM 9984-9986
180. Max Rosen and Stephen Tosi Letter of Offer of Employment to Darren Brennan MD UMM 07162-4
181. Joseph Ferrucci and E. Dickson Letter of Offer of Employment to Byron Chen MD UMM 10941-10942
182. Max Rosen and Stephen Tosi Letter of Offer of Employment to Elisabeth Garwood MD UMM 14133-14135, 14128-14130
183. Max Rosen and Stephen Tosi Letter of Offer of Employment to Jay Agrawal MD UMM 09157-8
184. Max Rosen and Stephen Tosi Letter of Offer of Employment to Maria Barile MD UMM 9208-9209
185. Max Rosen and Stephen Tosi Letter of Offer of Employment to Girish Tyagi MD UMM 26542-26543
186. Alan Goldstein MD Receipt of Division Chief Position UMM 14577
187. Brian Brochu MD Receipt of Division Chief Position UMM 9984-9986
188. Hao Lo MD Receipt of Division Chief Position UMM 17669
189. Byron Chen MD Receipt of Division Chief Position UMM 10935
190. Elisabeth Garwood MD Receipt of Division Chief Position UMM 14132

191. Christopher Sereni MD Receipt of Division Chief Position UMM 20384
192. Ryan Tai MD Receipt of Division Chief Position UMM 25724
193. George Watts MD Receipt of Division Chief Position UMM 27877
194. Ajit Puri MD Receipt of Division Chief Position UMM 22946
195. Jean-Marc Gauguet MD Receipt of Division Chief Position UMM 14301
196. Karin Dill MD Receipt of Division Chief Position UMM 7666-8
197. Alan Goldstein MD Date of Hire UMM 14579
198. Brian Brochu MD Date of Hire UMM 10037
199. Hao Lo MD Date of Hire UMM 17674
200. Byron Chen MD Date of Hire UMM 10941
201. Elisabeth Garwood MD Date of Hire UMM 14133
202. Christopher Sereni MD Date of Hire UMM 20387
203. Ryan Tai MD Date of Hire UMM 25726
204. George Watts MD Date of Hire UMM 27939
205. Ajit Puri MD Date of Hire UMM 22951
206. Jean-Marc Gauguet MD Date of Hire UMM 14311
207. Karin Dill MD Date of Hire UMM 07628
208. Letter from Dr. Sheikh Recommending Dr. Hao Lo for Promotion to Academic Rank of Associate Professor UMM 17474
209. Letter from Max Rosen to Dr. Hao Lo regarding Promotion to Vice Chair of Diagnostic Operations and Associated Salary UMM 17669
210. Radiologists Hired by UMass Memorial Medical Group Since March 14, 2018, UMM 03689

- 211. Email Thread between K. Dill and M. Rosen Re: Confidential Review dated February 16, 2018, UMM 4420
- 212. M. Rosen and Stephen Tosi Letter of Notice Termination of Employment of Eugenio Suran MD dated May 8, 2014, with an offer of per diem work immediately following termination UMM 03718
- 213. Letter from M. Rosen to Radiology Faculty Stating New Salary Structure for Diagnostic Radiologists signed on February 14, 2017, Effective March 1st, 2017 UMM 03898
- 214. Email from M. Rosen to Ajit Puri MD and Ajay Wakhloo MD Subject: Confidential UMM 22296
- 215. Excel Spreadsheet of Radiologist Compensation Data UMM 0721-2
- 216. Marlborough Hospital Delineation of Clinical Privileges form for Maria Barile UMM 09221-09223
- 217. Letter from Steve Roach dated February 9, 2015, Re: Charu Desai Marlborough Hospital Medical Staff Appointment UMM 03645
- 218. Letter from Steve Roach dated July 11, 2017, Re: Charu Desai Marlborough Hospital Medical Staff Appointment UMM 03639
- 219. An email mail thread between M. Rosen, C. Cavagnaro, and S. Tosi on March 6-7, 2019, UMM 08958
- 220. Continuing Education Summary Charu Desai UMM 3358-3363, UMM 2870
- 221. Faculty Additional Compensation for Charu Desai May 2, 1994, December 12, 1994, November 14, 1994, June 3, 1996, UMM 160-1, UMM 156-7

- 222. Letter to Jean-Marc Gauguier Regarding Faculty Appointment Confirmation, UMM 14270, 14281
- 223. Handwritten Notes of Karin Dill, MD UMM 30112-30115
- 224. Letter From M. Rosen to Darren Brennan dated August 13, 2019, UMM 09636
- 225. Letter From M. Rosen to Darren Brennan dated December 20, 2018, UMM 09637
- 226. Letter From M. Rosen to Darren Brennan dated August 14, 2018, UMM 09638
- 227. Letter From M. Rosen to Darren Brennan dated February 16, 2017, UMM 09639
- 228. Handwritten Notes Incentive Plan Dated October 9, 2008, UMM 06554
- 229. Email from Sue Afonso Sent March 28, 2018 Subject: For Charu CD 157
- 230. Emails From M. Rosen, S. Tosi, and K. Dill Regarding Workflow Backup UMM 5003, UMM 314, UMM 30055
- 231. Email from M. Rosen to C. Desai Subject: Chest Resident Workflow Dated September 16, 2016, UMM 04742
- 232. Email from M. Rosen to A. Singer UMM 30072
- 233. Charu Desai Annual Salary Effective March 1, 2017, UMM 03898, UMM 721-722
- 234. Resignation Letter of Dr. Adib Karam MD, dated January 4th, 2017, UMM 03704
- 235. Dr. Adib Karam Selected as Division Chief of As Division Chief of Abdominal Imaging UMM 00728
- 236. Resignation Letter of Dr. Abhijit Roychowdhury UMM 03711
- 237. Dr. Abhijit Roychowdhury Employee Separation Form UMM 23656
- 238. Credentialing Document in which M. Rosen mentions Dr. Desai's compliance with call policies and conduct of quality review UMM 03680

- 239. E-mail from M. Rosen to C. Desai, May 13, 2016 UMM 314-315
- 240. FMLA Approval of Leave March 26, 2015, through March 25, 2016, UMM 424-429
- 241. FMLA Approval of Leave April 8, 2016, through March 8, 2017, UMM 384
- 242. FMLA Approval of Leave March 9, 2017, through March 8, 2018, Charu Desai Deposition Exhibit 35
- 243. FMLA Approval of Leave March 21, 2018, through March 20, 2019, UMM 465-466
- 244. Affidavit of Randa Mowlood dated March 3, 2022.
- 245. Affidavit of Joseph Ferrucci dated March 2, 2022.
- 246. Second Affidavit of Max Rosen dated March 3, 2022.
- 247. Chest Division Meeting Minutes June 14, 2017, UMM 4377-4378
- 248. Agreement Between UMMG and Phillip Steeves, MD UMM 24652-24654
- 249. Email from J. Ferrucci to M. Rosen Dated February 10, 2017, Re: Charu Desai UMM 4602
- 250. Letter From Oscar Starobin MD, dated February 13, 2008, CD 50
- 251. Comments of Lawrence Rosenthal, MD Cardiologist, dated September 6, 2017, Regarding Dr. Charu Desai's Serious Health Condition, CD 116-7
- 252. Annual Faculty Performance Evaluation of Dr. Maria Barile by M. Rosen UMM 02194
- 253. Arrangement of Collegial Intervention for Guillermo Walters, MD UMM 27620-1
- 254. Email Exchange Between M. Rosen and K. Dill re: Confidential Review dated February 16, 2018, UMM 4420

- 255. Darren Brennan MD Personnel Files UMM 07161, 07164, 07110
- 256. Diana Litmanovich MD De-Coded Raw Data from Independent Review UMM 695-696
- 257. University of Massachusetts Medical Center Authorization for Faculty Recruitment UM 92
- 258. Email from M. Rosen to Charu Desai RE: March 14, 2018 Meeting dated April 17, 2018, UMM 540
- 259. Email from Charu Desai to M. Rosen Subject: CT Scan Readings dated March 23, 2018, UMM 541
- 260. Charu Desai MD Co-Authoring of Abstract with Dr. Jerry Balikian MD UMM 6629
- 261. Poster of Timeline of Events for Presentation at Trial

**OUTSTANDING LEGAL ISSUES TO BE ADDRESSED
AT THE FINAL PRE-TRIAL CONFERENCE**

Plaintiff's motions in limine to exclude Dr. Kazarooni and Dr. Litmanovich. Plaintiff's response to Defendants' motions in limine.

F. EXPERT DISCLOSURES

Plaintiff has disclosed Dr. Pogos Vaskanian as a forensic psychiatrist (damages); Michael Morrison, Ph.D. as an economist (wages); Dr. James R. Gruden (liability). Defendant has disclosed Dr. Kazarooni.

G. TRIAL TIME

Plaintiff anticipates ten (10) days to put on her case in chief and estimates the entire trial should take fifteen (15) days. (Assuming court convenes for half a day).

H. STIPULATIONS

There have yet to be any stipulations between counsel.

Respectfully submitted,

CHARU DESAI

By her attorneys,

s/ Timothy M. Kolman

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Date: November 21, 2022

CERTIFICATE OF SERVICE

I hereby certify that I served a true copy of the above document on all counsel of record by the Electronic Court Filing System (ECF) of the United States District Court for the District of Massachusetts.

/s/ Timothy M. Kolman

Timothy M. Kolman, Esquire